

REMARKS

Pursuant to the non-final Office Action mailed June 27, 2006, which has been carefully considered, Applicants respectfully request reconsideration. To further the prosecution of this application, each of the issues raised in the non-final Office Action is addressed herein.

Claims 1-25 are currently pending in this application, of which Claims 1, 12 and 21 are independent claims. By this Amendment, Claims 1, 3, 5, 12, 14, 15 and 21 have been amended and Claims 2 and 13 have been cancelled, primarily to address objections and accept subject matter deemed allowable by the Examiner. The application as now presented is believed to be in allowable condition.

A. Allowable Subject Matter

Applicants acknowledge and note with appreciation that Claims 2-5 and 13-17 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Accordingly, while not acceding to the propriety of any claim rejections over prior art set forth in the Office Action, Applicants have rewritten Claims 1, 12 and 21 to accept the subject matter deemed allowable by the Examiner, so as to expedite the prosecution of this application towards allowance.

Specifically, independent Claim 1 has been rewritten to incorporate the subject matter of dependent Claim 2, which was indicated as allowable, and Claim 2 was cancelled. In addition, Claims 12 and 21 were rewritten to incorporate the subject matter in Claim 13, which was

indicated as allowable, and Claim 13 was cancelled. Thus, Claims 1, 3-12 and 14-25 are now in condition for allowance.

B. Claim Rejections under 35 U.S.C. § 102

In the Office Action, Claims 1, 6-8, 12, 18 and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,563,590 B2 to Chowdhury et al. (*Chowdhury*). Additionally, in the Office Action Claims 1, 7, 8, 12, 18 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by WO 01/067649 A1 (with reference to U.S. Patent No. 6,885,783 B2) to Bandemer et al. (*Bandemer*). However, these rejections of Claims 1, 6-8, 12, 18 and 20 have been rendered moot by the amendments submitted herewith. These amendments were made solely to expedite prosecution of this application towards allowance by accepting subject matter deemed allowable by the Examiner. Applicant does not necessarily concede that the foregoing rejections are proper and reserves the right to file one or more related applications directed to the subject matter of the claims prior to the amendments herein.

C. Claim Rejections under 35 U.S.C. § 103

In the Office Action, Claim 19 was rejected under 35 U.S.C. §103(a) as being obvious in view of either *Chowdhury* or *Bandemer*. Additionally, Claims 9-11 and 21-25 were rejected under 35 U.S.C. §103(a) as being obvious in view of the combined teachings of either *Chowdhury* or *Bandemer* and an article titled "In-Service Measurements of Polarization-Mode Dispersion and Correlation to Bit-Error Rate," IEEE Photonics Technology Letters, Vol. 15, No. 4, April 2, 2003 (*Boroditsky*). It is also submitted that these rejections are rendered moot by the

Applicants: Boroditsky, et al.
Application Serial No.: 10/825,529
Filing Date: April 15, 2004
Docket No.: 1209-48 (2003-0244)
Reply To Non-Final Office Action Mailed June 27, 2006
Page 12 of 13

amendments herein which were solely made to expedite prosecution of this application towards allowance by accepting subject matter deemed allowable by the Examiner.

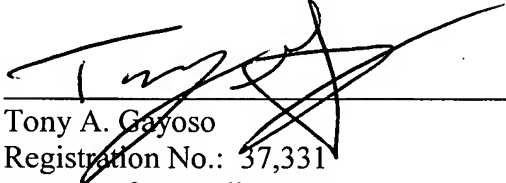
Applicant submits that Claims 9-11, which depend from Claim 1; Claim 19, which depends from Claim 12 and Claims 22-25, which depend from Claim 21 are patentable over the art of record by virtue of their dependency from Claims 1, 12 and 21, respectively. Further, Applicant submits that Claims 3-11, 14-20 and 22-25 define patentable subject matter in their own right. Therefore, it is respectfully requested that the rejection of Claims 1, 6-8, 12, 18 and 20 under 35 U.S.C. §§102(b) and 102(e) and the rejection of Claims 9-11, 19 and 21-25 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

Applicants: Boroditsky, et al.
Application Serial No.: 10/825,529
Filing Date: April 15, 2004
Docket No.: 1209-48 (2003-0244)
Reply To Non-Final Office Action Mailed June 27, 2006
Page 13 of 13

D. Conclusion

In view of the foregoing amendments and remarks, entry of the amendments to Claims 1, 3, 5, 12, 14, 15, 21 are requested and favorable reconsideration of the Claims, as amended; and allowance of pending claims 1, 3-12, 14-25 are respectfully and earnestly solicited. If the Examiner believes that a telephone interview would assist in moving the application toward allowance, he is respectfully invited to contact the Applicants' attorney at the telephone number listed below.

Respectfully submitted,



Tony A. Gayoso
Registration No.: 37,331
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791-4407
(516) 822-3550
TAG:ejw
225296_4